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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF ARIZONA

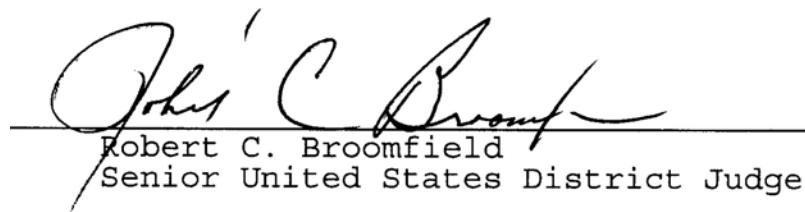
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12 In re DIANA L. JONES,)
13) No. CIV 04-2940 PHX RCB
14 Debtor,) (BK 04-6216 GBN)
15 _____)
16 DIANA L. JONES,) Adversary No. 04-920
17)
18 Appellant,) BAP No. AZ-04-1491
19)
20 vs.)
21 INTERNAL REVENUE SERVICE and) O R D E R
22 DEPARTMENT OF TREASURY,
23)
24 Appellees.)
25 _____)
26

27 Currently pending before the Court is Appellant Diana Jones'
28 Motion to Deny Trustee's Motion to Dismiss Appeal (doc. # 5) filed
on June 29, 2005, which the Court would construe as a response in
opposition to the Trustee's Motion to Dismiss (doc. # 2) filed on
May 17, 2002. However, because Appellant did not file her motion
within the time allotted under the Local Rules of this District for
service and filing of responsive memoranda, see LRCiv 7.2(c), and
App. A (Time Chart), the Court had already granted the Trustee's

1 motion prior to receiving Appellant's putative response. See Order
2 (doc. # 3). The record reflects that the Court's order granting
3 the Trustee's motion was filed and entered on the same day as
4 Appellant's putative response. This does not alter the fact that
5 Appellant's response would still have been untimely under the Local
6 Rules. Under Local Rule of Civil Procedure 7.2(i), the Court may
7 deem a party's lack of opposition-- or untimely opposition-- as
8 consent to the granting of a motion, and may grant the motion
9 summarily if it is facially meritorious. LRCiv 7.2(i); Henry v.
10 Gill Indus., Inc., 983 F.2d 943, 950 (9th Cir. 1993). The Court's
11 order dismissing the appeal sets forth the reasons why the
12 Trustee's arguments for dismissal were facially meritorious. See
13 Order (doc. # 3). Therefore,

14 IT IS ORDERED that Diana Jones's Motion to Deny Trustee's
15 Motion to Dismiss Appeal (doc. # 5) is DENIED and dismissed as
16 moot.

17 DATED this 16th day of December, 2005.

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21 Robert C. Broomfield
Senior United States District Judge

22 Copies to counsel of record and pro se appellant

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